

INITIAL STATEMENT OF REASONS

These regulations are non-duplicative, that is they do not serve the same purpose, of any federal or state law or regulation unless otherwise specified in a Factual Basis.

a. Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 31-237(a)

Specific Purpose:

This section is adopted to specify the requirement that social workers/probation officers assist all minors and nonminor dependents to develop a 90-Day Transition Plan for independence while they are still in foster care to ensure that the youth are prepared for a successful transition to independent living and to specify the requirement that the 90-Day Transition Plan be developed within 90 days of a youth's 18<sup>th</sup> birthday or emancipation from foster care between the ages of 18 and 21 for a nonminor dependent.

Factual Basis:

This regulation is necessary to implement state law contained within Senate Bill (SB) 597 (Chapter 339, Statutes of 2009), which complied with federal legislation Public Law (P.L.) 110-351, adding Welfare and Institutions Code (WIC) section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B). This regulation substantially duplicates the above cited state and federal legislation and statute but duplication is necessary to clarify program requirements and provide context for the subsequent proposed regulations for the 90-Day Transition Plan. [clarity standard at Government Code section 11349(c)]

Sections 31-237(a)(1) and (2)

Specific Purpose:

These sections are being adopted to clarify when the requirement in Section 31-237.1 is not applicable.

Factual Basis:

These regulations are necessary to accurately apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B).

### Section 31-237(b)

#### Specific Purpose:

This section clarifies that the purpose of the 90-day Transition Plan is to create a plan for independent living that includes tangible steps for the youth or nonminor dependent to take to address their needs and identifies available supports and services that will help them meet their transition goals.

#### Factual Basis:

This regulation is necessary to explain the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), to guide social workers/probation officers in the appropriate development of the 90-Day Transition Plan.

### Sections 31-237(c) and (c)(1)-(2)

#### Specific Purpose:

These sections are necessary to clarify for social workers/probation officers which youth are required to have a 90-day Transition Plan.

#### Factual Basis:

Same as above Section 31-237(a).

### Section 31-237(d)

#### Specific Purpose:

This section is being adopted to clarify that the 90-day Transition Plan is a document that is separate from another transition document, the Transitional Independent Living Plan (TILP), and, once developed, takes the place of the TILP unless the minor or nonminor dependent remains a juvenile court dependent beyond the 90-day period prior to the minor or nonminor dependent's planned exit from foster care.

#### Factual Basis:

This regulation is necessary to provide consistency with ACL 09-87, through which the CDSS used its authority under WIC sections 10553 and 10554, to develop policy clarifying WIC section 16501.1 (f)(16)(B), now re-numbered as 16501.1(g)(16)(B).

## Sections 31-237(e) and (e)(1)-(9)

### Specific Purpose:

These sections are necessary to ensure that the youth have other representatives, besides the social worker/probation officer, to advocate for their needs when planning for their transition to independence.

### Factual Basis:

This addition is necessary for consistency with WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), which specifies that other representatives of the youth, as appropriate, may assist in the development of the 90-Day Transition Plan. The CDSS is using its authority under WIC section 10553 and 10554 to develop regulations to identify the types of representatives that can assist in the development of a youth's 90-Day Transition Plan.

## Section 31-237(f)

### Specific Purpose:

This section is necessary to explain what, at a minimum, needs to be included in the 90-day Transition Plan to help guide the process of developing the plan and ensure that the youth receives the benefits and services needed to successfully transition to independence.

### Factual Basis:

Same as above Section 31-237(a).

## Handbook Sections 31-237(f)(1) and (f)(1)(A)-(B)

### Specific Purpose/Factual Basis:

This handbook references WIC section 16501.1(f)(16)(B) [Assembly Bill (AB) 1067 (Chapter 851, Statutes of 2016)], now re-numbered as 16501.1(g)(16)(B).

## Section 31-237(g)

### Specific Purpose:

This section is being adopted to specify the requirement that the transition plan for independence, known as the 90-Day Transition Plan, include information on establishing a power of attorney for health care decisions to ensure youth are informed about this important health care option and explains the purpose of utilizing a power of attorney for health care decisions.

Factual Basis:

This regulation implements state law contained in AB 212 (Chapter 459, Statutes of 2011), which complied with federal legislation P.L. 111-148, adding a new requirement in WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) and is necessary to guide social workers/probation officers in accurately explaining the use of power of attorney for health care decisions to youth and NMDs when developing the 90-Day Transition Plan. This regulation substantially duplicates the above cited state and federal legislation and statute but duplication is necessary to clarify program requirements and provide context for the subsequent proposed regulations for the 90-Day Transition Plan. [clarity standard at Government Code section 11349(c)]

Section 31-237(h)

Specific Purpose:

This section is being adopted to specify the requirement that the social worker/probation officer shall inform the youth of the option to execute a health care directive authorizing another person to make health care decisions for them if they are unable to do so themselves.

Factual Basis:

This regulation implements state law contained in AB 212 (Chapter 459, Statutes of 2011), which complied with federal legislation P.L. 111-148, adding a new requirement in WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B).

Section 31.237(h)(1)

Specific Purpose:

This section is being adopted to ensure the youth receives adequate instruction in how to execute a health care directive by requiring the social worker/probation officer to provide a copy of a sample advance health care directive and explain the steps necessary to fill it out.

Factual Basis:

This regulation is necessary to apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) by specifying how the social worker/probation officer should provide and explain information about the option to execute an advance health care directive.

#### Section 31.237(h)(2)

##### Specific Purpose:

This section is being adopted to advise social workers/probation officers that providing legal or health care advice to foster youth is prohibited but can offer other resources to the youth to assist in their decision making with regards to health care directives.

##### Factual Basis:

This regulation is necessary to consistently apply the intent of WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B).

#### Sections 31-237(i) and (i)(1)-(2)

##### Specific Purpose:

These sections are adopted to improve the health and welfare of foster youth aging out of foster care by ensuring the 90-day Transition Plan includes information about additional services that will help the youth to successfully transition to independence, including information relating to sexual health, services, and resources to assist the youth in making healthy and informed decisions for themselves.

##### Factual Basis:

This addition is necessary for consistency with the Administration of Children, Youth and Families-Children's Bureau-Program Instruction (ACYF-CB-PI) 10-11, Section C.

#### Section 31-237(j) and (j)(1)-(4)

##### Specific Purpose:

These sections are adopted to improve the health and welfare of foster youth aging out of foster care by advising the social worker/probation officer to prepare the youth well in advance of their 90-day Transition Plan meeting to ensure the youth can participate meaningfully in the development of their plan.

##### Factual Basis:

Same as above Section 31-237(i).

#### Section 31-237(k)

##### Specific Purpose:

This section is adopted to ensure that the youth's other case plans are considered when developing the 90-day Transition Plan for consistency and coordination of the youth's case plans.

##### Factual Basis:

This regulation is necessary for consistency with All County Letter (ACL) No. 09-87, which implemented WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B) in the absence of regulations, and has been in effect since 2009.

#### Section 31-237(l)

##### Specific Purpose:

This section is adopted to ensure that all youths, including those with developmental disabilities or a physical or mental health disorder, receive the benefit of a transition plan which will help them access needed benefits, programs, and services.

##### Factual Basis:

See above Section 31-237(k).

#### Section 31-237(m)

##### Specific Purpose:

This section is adopted to ensure that youth who were on runaway status during the time a 90-day Transition Plan would have been developed are provided with their important documents upon request if they return within a two-year time-frame, including, but not limited to, their birth certificate, social security card, proof of dependency, or Medi-Cal card, which allow them to access needed programs and services.

##### Factual Basis:

See above Section 31-237(k).

Section 31-237(n)

Specific Purpose:

This section is adopted to ensure that there is a record of the participation of all persons involved in developing the plan and that all participants receive a copy of the plan.

Factual Basis:

Same as above Section 31-237(k).

b. Identification of Documents Upon Which Department Is Relying

SB 597 (Chapter 339, Statutes of 2009)  
AB 212 (Chapter 459, Statutes of 2011)  
AB 1067 (Chapter 851, Statutes of 2016)  
ACL 09-87  
ACL 10-45  
ACYF-CB-PI 10-11, Section C  
P.L. 110-351  
P.L. 111-148

c. Local Mandate Statement

These regulations do not impose a new mandate upon local agencies, or any mandate on school districts. There are no “state-mandated local costs” in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

d. Statement of Alternatives Considered

In developing the regulatory action, CDSS considered the following alternatives with the following results:

No alternatives were presented as these regulations are being developed due to state law implemented by SB 597 (Chapter 339, Statutes of 2009) regarding a 90-day Transition Plan for youth age 18 or older and nonminor dependents exiting foster care; AB 212 (Chapter 459, Statutes of 2011) regarding the inclusion of information on establishing a power of attorney for health care decisions and advance health care directive forms in the 90-day Transition Plan; and AB 1067 (Chapter 851, Statutes of 2016) regarding the verification of Medi-Cal enrollment and description of steps taken/to be taken to ensure exiting youth and nonminor dependents are enrolled in the Medi-Cal for former foster youth program.

The CDSS must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of CDSS, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e. Statement of Significant Adverse Economic Impact on Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because these requirements only apply to county child welfare agencies and probation departments.



f. Economic Impact Assessment [Government Code section 11346.3(b)]

In accordance with WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B), CDSS has assessed the impact of the requirements of the proposed regulations. The CDSS has made an initial determination that there would be no economic impact as a result of issuing these regulations because the regulations apply only to county child welfare agencies and probation departments.

In accordance with Government Code section 11346.3(b), CDSS has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations include the following provisions:

- Existing regulations governing the TILP require that transition planning services be provided to youth and nonminor dependents in the foster care system. To comply with P.L. 110-351, the Federal Fostering Connections to Success and Increasing Adoptions Act, SB 597 (Chapter 339, Statutes of 2009) added an additional transition planning requirement (WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B)): a transition plan that is developed within 90 days of the youth's planned exit from foster care at age 18 or older.
- AB 212 (Chapter 459, Statutes of 2011) mandated that the 90-day Transition Plan include information about advanced health care directive forms (WIC section 16501.1(f)(16)(B), now re-numbered as 16501.1(g)(16)(B)).
- AB 1067 (Chapter 851, Statutes of 2016) mandated that the information in the 90-day Transition Plan regarding health insurance include verification that the eligible youth or nonminor dependent is enrolled in Medi-Cal and a description of the steps that have been or will be taken by the assigned social worker or probation officer to ensure that the youth or nonminor dependent is successfully transitioned into the Medi-Cal program for former foster youth upon exit from foster care.

**Creation or Elimination of Jobs Within the State of California**

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments and would not add a significant workload for social workers/probation officers.

## **Creation of New or Elimination of Existing Businesses Within the State of California**

The adoption of the proposed regulations will neither result in the creation of new businesses nor elimination of existing businesses in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments.

## **Expansion of Business Within the State of California**

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. The justification for this statement is that the regulations would only apply to county child welfare agencies and probation departments.

## **Benefits of the Regulations**

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: the proposed regulations will provide a benefit to the health and welfare of California residents but only for foster youth emancipating from the foster care system. The regulations will provide these foster youths with a transition plan for independence to help them succeed in living independently; provides information to foster youth regarding the important option of having someone else make health care decisions for them in the event they are unable to and how to accomplish this through an advance health care directive; and ensures that foster youth exiting the foster care system have health insurance until age 26. Worker safety is not affected by this regulatory action. The state's environment is not affected by this regulatory action.

## **Documents Relied Upon**

SB 597 (Chapter 339, Statutes of 2009)  
AB 212 (Chapter 459, Statutes of 2011)  
AB 1067 (Chapter 851, Statutes of 2016)  
ACL 09-87  
ACL 10-45  
ACYF-CB-PI 10-11, Section C  
P.L. 110-351  
P.L. 111-148

g. Benefits Anticipated from Regulatory Action

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: the proposed regulations will provide a benefit to the health and welfare of California residents but only for foster youth emancipating from the foster care system. The regulations will provide these foster youths with a transition plan for independence to help them succeed in living independently; provides information to foster youth regarding the important option of having someone else make health care decisions for them in the event they are unable to and how to accomplish this through an advance health care directive; and ensures that foster youth exiting the foster care system have health insurance until age 26.

h. Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.